



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2499

Introduced 2/17/2005, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

430 ILCS 15/4	from Ch. 127 1/2, par. 156
430 ILCS 15/4.5 new	
430 ILCS 15/6	from Ch. 127 1/2, par. 158
430 ILCS 15/6.1	from Ch. 127 1/2, par. 158.1
430 ILCS 15/7	from Ch. 127 1/2, par. 159

Amends the Gasoline Storage Act. Provides that a retailer of ethanol blended gasoline that owns an ethanol aboveground storage tank having a capacity of greater than 1,000 gallons shall register the tank with the Office of the State Fire Marshal. Provides that each retailer required to register an ethanol aboveground storage tank shall pay the Office of the State Fire Marshal a registration fee. Expands the rulemaking authority of the Office of the State Fire Marshal to regulate ethanol aboveground storage tanks. Defines "ethanol aboveground storage tank".

LRB094 10755 RXD 41183 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Gasoline Storage Act is amended by changing
5 Sections 4, 6, 6.1, and 7 and by adding Section 4.5 as follows:

6 (430 ILCS 15/4) (from Ch. 127 1/2, par. 156)

7 Sec. 4. Underground Storage Tank Program; administration.

8 (a) In cooperation with the Illinois Environmental
9 Protection Agency, the Office of the State Fire Marshal shall
10 administer the Illinois Underground Storage Tank Program in
11 accordance with this Section and Section 22.12 of the
12 Environmental Protection Act.

13 (b) (1) (A) The owner of an underground storage tank that
14 was not taken out of operation before January 2, 1974, and that
15 at any time between January 1, 1974, and September 24, 1987,
16 contained petroleum or petroleum products or hazardous
17 substances, with the exception of hazardous wastes, shall
18 register the tank with the Office of the State Fire Marshal. No
19 underground storage tank taken out of operation before January
20 2, 1974, may be registered under this Act. No underground
21 storage tank otherwise required to be registered under this
22 subparagraph (A) may be registered under this Act if that tank
23 was removed before September 24, 1987.

24 (B) The owner of a heating oil underground storage tank
25 having a capacity of greater than 1100 gallons that was not
26 taken out of operation before January 2, 1974, and that at any
27 time between January 1, 1974, and July 11, 1990, contained
28 heating oil shall register the tank with the Office of the
29 State Fire Marshal. No heating oil underground storage tank
30 taken out of operation before January 2, 1974, may be
31 registered under this Act. No heating oil underground storage
32 tank otherwise required to be registered under this

1 subparagraph (B) may be registered under this Act if that tank
2 was removed before July 11, 1990.

3 (C) The owner of a heating oil underground storage tank
4 having a capacity of 1,100 gallons or less that was not taken
5 out of operation before January 2, 1974, and that any time
6 between January 1, 1974, and September 6, 1991, contained
7 heating oil shall register the tank with the Office of State
8 Fire Marshal. No heating oil underground storage tank taken out
9 of operation before January 2, 1974, may be registered under
10 this Act. No heating oil underground storage tank otherwise
11 required to be registered under this subparagraph (C) may be
12 registered under this Act if that tank was removed before
13 September 6, 1991.

14 (D) "Operation", as used in this subsection (b), means that
15 the tank must have had input or output of petroleum, petroleum
16 products, or hazardous substances, with the exception of
17 hazardous wastes, during the regular course of its usage.
18 "Operation" does not include (i) compliance with leak detection
19 requirements as prescribed by rules and regulations of the
20 Office of State Fire Marshal or (ii) the mere containment or
21 storage of petroleum, petroleum products, or hazardous
22 substances, with the exception of hazardous wastes.

23 (2) The owner of an underground storage tank who registered
24 the tank with the Office of the State Fire Marshal under
25 Section 4 of the State Fire Marshal Act prior to September 24,
26 1987 shall be deemed to have registered the tank under
27 paragraph (1).

28 (3) (A) Each person required to register an underground
29 storage tank, other than a heating oil underground storage
30 tank, under paragraph (1) shall pay the Office of the State
31 Fire Marshal a registration fee of \$500 for each tank
32 registered, to be deposited in the Underground Storage Tank
33 Fund.

34 (B) Each person required to register a heating oil
35 underground storage tank shall pay to the Office of the State
36 Fire Marshal a registration fee of \$100 for each tank

1 registered before July 2, 1992, and \$500 for each tank
2 registered after July 1, 1992, to be deposited into the
3 Underground Storage Tank Fund.

4 (C) No registration fee shall be due under this paragraph
5 (3) for underground storage tanks deemed registered pursuant to
6 paragraph (2).

7 (4) The Office of the State Fire Marshal shall establish
8 procedures relating to the collection of the fees authorized by
9 this subsection. Such procedures shall include, but need not be
10 limited to, the time and manner of payment to the Office of the
11 State Fire Marshal.

12 (5) The State Fire Marshal is authorized to enter into such
13 contracts and agreements as may be necessary, and as
14 expeditiously as necessary, to carry out the Office of the
15 State Fire Marshal's duties under this subsection.

16 (6) (A) The owner of an underground storage tank, other than
17 a heating oil underground storage tank, which is installed or
18 replaced after September 24, 1987, and which contained,
19 contains or may contain petroleum or petroleum products or
20 hazardous substances, with the exception of hazardous wastes,
21 shall register the tank with the Office of the State Fire
22 Marshal prior to the installation or replacement.

23 (B) The owner of a heating oil underground storage tank
24 installed or replaced after July 11, 1990, and which contained
25 or may contain heating oil shall register the tank with the
26 Office of the State Fire Marshal before the installation or
27 replacement.

28 (7) Any person required to register an underground storage
29 tank under paragraph (1) or paragraph (6) of this subsection
30 shall register the tank on forms provided by the Office of the
31 State Fire Marshal.

32 (c) Except as otherwise provided in subsection (d), a
33 person who is the owner of an underground storage tank
34 containing petroleum or petroleum products or hazardous
35 substances, except hazardous waste, registered under
36 subsection (b) shall notify the Office of the State Fire

1 Marshal of any change in the information required under this
2 Section or of the removal of an underground storage tank from
3 service.

4 (d) A person who is the owner of an underground storage
5 tank containing petroleum or petroleum products or hazardous
6 substances, except hazardous waste, the contents of which are
7 changed routinely, shall indicate all the materials which are
8 stored in the tank on the registration form. A person providing
9 the information described in this subsection is not required to
10 notify the Office of the State Fire Marshal of changes in the
11 contents of the tank unless the material to be stored in the
12 tank differs from the information provided on the registration
13 form.

14 (e) For purposes of this Act:

15 The terms "petroleum" and "underground storage tank" shall
16 have the meanings ascribed to them in Subtitle I of the
17 Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of
18 the Resource Conservation and Recovery Act of 1976 (P.L.
19 94-580), except that "underground storage tank" shall include
20 heating oil underground storage tanks; however no release
21 detection shall be required of heating oil tanks, in existence
22 as of July 11, 1990, prior to December 22, 1998. The Office of
23 the State Fire Marshal shall have the authority to determine
24 the criteria for classification of an underground storage tank
25 as being either a petroleum underground storage tank or a
26 hazardous substance underground storage tank.

27 When used in connection with, or when otherwise relating
28 to underground storage tanks, the terms "operator", "owner",
29 and "facility" shall have the meanings ascribed to them in
30 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
31 (P.L. 98-616) of the Resource Conservation and Recovery Act of
32 1976 (P.L. 94-580).

33 "Bodily injury" means bodily injury, sickness, or disease
34 sustained by a person, including death at any time, resulting
35 from a release of petroleum from an underground storage tank.

36 "Property damage" means physical injury to, destruction

1 of, or contamination of tangible property, including all
2 resulting loss of use of that property; or loss of use of
3 tangible property that is not physically injured, destroyed, or
4 contaminated, but has been evacuated, withdrawn from use, or
5 rendered inaccessible because of an occurrence.

6 "Occurrence" means an accident, including continuous or
7 repeated exposure to conditions, which results in a release of
8 petroleum into the environment from an underground storage
9 tank.

10 "Heating oil" means petroleum that is No. 1, No. 2, No. 4
11 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6
12 technical grades of fuel oil; or other residual fuel oils
13 including Navy Special Fuel Oil and Bunker C.

14 "Heating oil underground storage tank" means an
15 underground storage tank serving other than farms or
16 residential units that is used exclusively to store heating oil
17 for consumptive use on the premises where stored.

18 "Ethanol aboveground storage tank" means any one or
19 combination of tanks (including aboveground pipes connected
20 thereto) which contain an accumulation of ethanol, and the
21 volume of which (including the volume of the aboveground pipes
22 connected thereto) is 90% or more above the surface of the
23 ground.

24 (Source: P.A. 87-323; 87-1088; 88-496.)

25 (430 ILCS 15/4.5 new)

26 Sec. 4.5. Ethanol aboveground storage tanks;
27 administration.

28 (a) A retailer of ethanol blended gasoline that owns an
29 ethanol aboveground storage tank having a capacity of greater
30 than 1,000 gallons, shall register the ethanol aboveground
31 storage tank with the Office of the State Fire Marshal. Each
32 retailer required to register an ethanol aboveground storage
33 tank shall pay the Office of the State Fire Marshal a
34 registration fee, to be established by the Office of the State
35 Fire Marshal. The Office of the State Fire Marshal shall

1 establish procedures relating to the collection of the
2 registration fees authorized under this subsection (a). The
3 procedures shall include, but need not be limited to, the time
4 and manner of payment to the Office of the State Fire Marshal.
5 The State Fire Marshal is authorized to enter into such
6 contracts and agreements as may be necessary, and as
7 expeditiously necessary, to carry out the Office of the State
8 Fire Marshal's duties under this subsection (a). Any retailer
9 required to register an ethanol aboveground storage tank shall
10 register the tank on forms provided by the Office of the State
11 Fire Marshal.

12 (b) A retailer of ethanol blended gasoline that owns an
13 ethanol aboveground storage tank having a capacity of greater
14 than 1,000 gallons, the contents of which are changed
15 routinely, shall indicate all the materials which are stored in
16 the tank on the registration form. A retailer providing the
17 information described in this subsection (b) is not required to
18 notify the Office of the State Fire Marshal of any change in
19 the contents of the tank unless the material to be stored in
20 the tank differs from the information provided on the
21 registration form.

22 (430 ILCS 15/6) (from Ch. 127 1/2, par. 158)

23 Sec. 6. (a) If necessary or appropriate to assure that the
24 public health or safety is not threatened, the Office of State
25 Fire Marshal shall have authority to:

26 (1) (A) provide notice to the owner or operator, or both, of
27 an underground storage tank or ethanol aboveground storage tank
28 whenever there is a release or substantial threat of a release
29 of petroleum or regulated substances from such tank. Such
30 notice shall include the identified emergency action and an
31 opportunity for the owner or operator, or both, to perform the
32 emergency action; or

33 (B) undertake emergency action whenever there is a release
34 or substantial threat of a release of petroleum or regulated
35 substances from an underground storage tank or ethanol

1 aboveground storage tank.

2 (2) If notice has been provided under clause (A) of
3 paragraph (1) of this subsection, the Office shall have the
4 authority to require the owner or operator, or both, of an
5 underground storage tank or ethanol aboveground storage tank to
6 undertake emergency action whenever there is a release or
7 substantial threat of a release of petroleum or regulated
8 substances from such tank.

9 (3) The emergency action undertaken or required under this
10 Section shall be such as may be necessary or appropriate to
11 assure that the public health or safety is not threatened.

12 (b) In accordance with constitutional limitations, the
13 Office shall have authority to enter at all reasonable times
14 upon any private or public property for the purpose of taking
15 emergency action whenever there is a release or substantial
16 threat of a release of petroleum or regulated substances from
17 an underground storage tank or ethanol aboveground storage
18 tank.

19 (c) The Office shall require emergency action under
20 paragraph (2) of subsection (a) through issuance of an
21 Administrative Order. Such an order shall be served by
22 registered or certified mail or in person and may order
23 emergency action. Any person served with such an order may
24 appeal such order by submitting in writing any such appeal to
25 the Office within 10 days of the date of receipt of such order.
26 The Office shall conduct an administrative hearing governed by
27 The Illinois Administrative Procedure Act and enter an order to
28 sustain, modify or revoke such order. Any appeal from such
29 order shall be to the circuit court of the county in which the
30 violation took place and shall be governed by the
31 Administrative Review Law.

32 (d) Neither the State, the State Fire Marshal, nor any
33 State employee shall be liable for any damages or injury
34 arising out of or resulting from any action taken under Section
35 6.

36 (Source: P.A. 85-1325.)

1 (430 ILCS 15/6.1) (from Ch. 127 1/2, par. 158.1)

2 Sec. 6.1. Financial responsibility.

3 (a) Each owner or operator shall establish and maintain
4 evidence of financial responsibility, as provided in this
5 Section, for taking corrective action and compensating third
6 parties for bodily injury and property damage.

7 (b) Each owner or operator shall maintain financial
8 responsibility at the following minimum amounts:

9 (1) \$10,000 per occurrence for corrective action;

10 (2) \$10,000 per occurrence for bodily injury and
11 property damage to third parties.

12 (c) Each owner or operator shall establish and maintain
13 evidence of financial responsibility by any combination of the
14 following:

15 (1) commercial or private insurance, including risk
16 retention groups;

17 (2) qualification as a self insurer; or

18 (3) guarantee, surety bond, letter of credit,
19 certificate of deposit, or designated savings account.

20 To qualify as a self insurer under this Section, the owner
21 or operator must demonstrate net worth equal to or in excess of
22 10 times the amount specified in subsection (b) of this
23 Section.

24 (d) The establishment and enforcement of standards for the
25 financial responsibility of the owners and operators of
26 underground storage tanks and ethanol aboveground storage
27 tanks, and associated piping are exclusive powers and functions
28 of the State. A home rule unit may not regulate or establish
29 standards for the financial responsibility of the owners and
30 operators of underground storage tanks or ethanol aboveground
31 storage tanks. This Section is a denial and limitation of home
32 rule powers and functions under subsection (h) of Section 6 of
33 Article VII of the Illinois Constitution.

34 (Source: P.A. 87-323.)

1 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

2 Sec. 7. (a) A violation of:

3 (1) paragraph (a) or (b) of subsection (3) of Section 2
4 of this Act is a business offense punishable by a fine of
5 not more than \$10,000 per day;

6 (2) (blank);

7 (2.5) Section 4.5 of this Act is a business offense
8 punishable by a fine of not more than \$10,000 per day;

9 (3) Section 4 of this Act is a business offense
10 punishable by a fine of not more than \$10,000 per day;

11 (3.5) Section 3.5 of this Act is a business offense
12 punishable by fine of not more than \$10,000 per offense;

13 (4) an administrative order as described in paragraph
14 (e) of subsection (3) of Section 2, paragraph (b) of
15 subsection (4) of Section 2 or subsection (c) of Section 6
16 after it has become final is a business offense punishable
17 by a fine of not less than \$1,000 nor more than \$25,000 per
18 day;

19 (5) any other rule promulgated by the Office of the
20 State Fire Marshal is a business offense punishable by a
21 fine of not less than \$100 nor more than \$1,000 for each
22 offense or each day of continued violation.

23 (b) (Blank).

24 (c) A civil action to recover such fines may be brought by
25 the Attorney General or the State's Attorney of the county in
26 which the violation occurred.

27 (d) Any monies received by the State under this Section
28 shall be deposited into the Underground Storage Tank Fund.

29 (Source: P.A. 92-618, eff. 7-11-02.)